



Section 5.2.2(d)(ii) of the proposed Tariff revisions states that ‘the seller of Financial Transmission Rights shall confirm to the Office of Interconnection . . . that the seller has no continuing interest in the Financial Transmission Rights following their transfer.’ Furthermore, section 5.2.2(d)(iv) of the proposed Tariff revisions states that a ‘seller under a bilateral agreement shall guarantee and indemnify the Office of the Interconnection, PJMSettlement, and the Members for the purchaser’s obligation to pay any charges associated with the transferred Financial Transmission Right and for which payment is not made to PJM Settlement by the purchaser under such a bilateral agreement.’ Please explain how to reconcile section 5.2.2(d)(ii), which prohibits the seller from retaining a continuing interest in a transferred FTR, and section 5.2.2(d)(iv), which seems to require that the seller retain a continuing interest in a transferred FTR, i.e., the seller must indemnify the Office of Interconnection, PJM, and the members, for the buyer’s failure to pay PJMSettlement any required charges associated with a transferred FTR. Please also explain whether proposed tariff revisions would be necessary to reconcile the two.

PJM claims (at 3) that the “maintenance of the assumption of risk and costs is not a continuing interest in the FTR once sold; a continuing interest would be a right or benefit with respect to the subject FTR that survives the bilateral transaction.”

PJM’s position is not supportable. Contrary to logic, PJM asserts that only positive interests count as interests. Assumption of risks and costs of an FTR is, by definition, assumption of a financial interest in an FTR. When a participant buys an FTR in an auction, they assume the risks and costs of the FTR. Under PJM’s indemnification rules the participant that bilaterally trades an FTR retains risks and costs associated with that FTR. Under PJM’s indemnification rules, a bilateral seller of an FTR therefore has a continuing direct financial interest in that FTR and a direct financial interest in the credit and collateral of the buyer.

PJM notes (at 3) “the elimination of any continuing interest (i.e., a right) in an FTR promotes transparency in PJM’s FTR market.” Promoting transparency is an appropriate objective. However, PJM’s proposed rules fail to promote transparency. PJM’s indemnification rules do not eliminate continuing interests in bilaterally traded FTRs and

therefore fail to promote market transparency and actually degrade transparency. The way to improve market transparency is to eliminate the bilateral FTR market.

PJM can and should require sufficient collateral from all FTR buyers to cover the risk of the acquired FTR. If PJM's collateral and credit rules do not provide efficient and adequate protections in the absence of the indemnification rules, PJM's collateral and credit rules should be amended to correct for this issue.

PJM has failed to demonstrate that "the seller of Financial Transmission Rights shall confirm to the Office of Interconnection . . . that the seller has no continuing interest in the Financial Transmission Rights following their transfer." The PJM Response fails to provide support showing that the November 9<sup>th</sup> Filing is just and reasonable. As a result, the November 9<sup>th</sup> Filing should be rejected.

**B. The November 9<sup>th</sup> Filing Undermines FTR Market Transparency.**

PJM's FTR market is the most transparent of all PJM markets. The facilitation of confidential bilateral transactions undercuts that transparency and therefore the efficiency of the FTR market. The bilateral information would be provided solely to PJM and not to the market. Transparency for PJM alone is not market transparency. The facilitation of confidential bilateral transactions does nothing to advance or improve the basic function of FTR markets. Nothing in PJM's proposal would prevent the wider use of bilateral trading that could undermine PJM FTR markets.

PJM's proposed changes would not, as asserted, "better enable PJM to conduct market surveillance of its FTR market." PJM specifically cites improved administration of the FTR forfeiture rule. Yet PJM fails to address the fact that, under PJM's proposed rules, both the seller and buyer would continue to have an interest in the value of the FTR and both would have an incentive to affect the value of the FTR through the use of virtual transactions. PJM's proposed changes will not improve the administration of the FTR forfeiture rule.

The other forms of potential manipulation referenced by PJM would not be possible in the absence of a bilateral FTR market. There is no need to create potential manipulation issues in the first place.

The November 9<sup>th</sup> Filing has not been shown to be just and reasonable and should be rejected.

### **C. All Primary Economic Terms Should Be Included in the Tariff.**

Question No. 2 of the Deficiency Letter asks:

The transmittal letter explains on page 11 that the FTR price field in FTR Center has been inconsistently applied by market participants and PJM had not previously provided clear guidance regarding the obligation to accurately report data in the price field. The transmittal then provides that “[t]he proposed Tariff revisions clarify that the price field should be completed with the actual price or prices paid under the FTR bilateral agreement.” Please identify the Tariff revisions to which the quoted language refers.

PJM cannot identify (at 4–7) any Tariff revisions in its original filing supporting its statement that “[t]he proposed Tariff revisions clarify that “[t]he price field should be completed with the actual price or prices paid under the FTR bilateral agreement.” That is because this requirement is not provided in PJM’s proposed Tariff revisions. PJM attempts (*id.*) to defend the failure to include specific requirements to provide accurate price information as a primary economic term in the proposed Tariff provisions.

PJM notes (at 4) that “price is a primary economic term” and that PJM “intends to request sellers report the price.” PJM states (at 4) that under the originally proposed tariff language participants “would be required to report accurate price information to PJM.” PJM suggests (at 4) there is no need for there to be a requirement that price be specifically listed explicitly in the proposed Tariff language. PJM states (at 4) that in its proposed tariff language, PJM would require sellers to report all primary economic terms requested by PJM through its FTR reporting tools. PJM claims (at 6) that by not listing the specific primary economic terms it wishes to collect it preserves the flexibility to request additional data elements not on the current primary economic term list.

These arguments do not make any sense. An accurate price is a basic piece of data that is needed to monitor a market. This is not subject to change. PJM should explicitly request the basic information that it has identified as primary economic terms. Either they are primary economic terms, or they are not. The purpose of delineation of primary economic terms, like price, is that it provides a clear directive to participants that the data must be provided under the Tariff. Further, by PJM's own argument, any specific delineation of primary economic terms would not preclude PJM requesting additional information as the need arises.

Holding aside PJM's objections to listing the primary economic terms in the Tariff, PJM states (at 7) that it "would be amendable to revising the proposed Tariff language consistent with PJM's proposal and existing practice." PJM (at 7) provides amended language which lists the 10 Primary Economic Terms it plans to request:

Primary Economic Terms shall include (1) the name of the seller, (2) the name of the buyer, (3) the FTR start date and (4) end date, (5) the quantity of the FTR transferred, (6) the source and sink of the underlying FTR, (7) the FTR market auction in which the FTRs were originally purchased, (8) the FTR class (9) the price and (10) execution date of the FTR bilateral agreement.

The proposed amended language (at 7) clarifies that the price provided to PJM, as a primary economic term, "shall reflect the actual price executed and confirmed between parties for each FTR transaction or the executed and confirmed full value of the FTR bundle."

If the November 9<sup>th</sup> Filing is accepted, the Commission should require that PJM file the amended proposed tariff provisions.

Question No. 3 of the Deficiency Letter asks:

The transmittal letter explains on page 10 that 'the proposed Tariff revisions require the buyer of FTRs under a FTR bilateral agreement to report 10 primary economic terms relating to the FTR bilateral agreement and the underlying FTR.' The transmittal letter then provides a list itemizing the 10 economic terms that must be provided to PJM. Please identify the Tariff revisions to which the quoted language refers.

PJM cannot identify (at 8) any Tariff revisions in its original filing supporting its statement that requires the buyer of FTRs under a FTR bilateral agreement to report 10 primary economic terms listed in its transmittal letter. That is because the list of 10 preliminary economic terms is not provided in PJM's proposed Tariff revisions. As noted in the Market Monitor response to B, above, PJM attempts to defend the failure to include the list of 10 preliminary economic terms in the proposed Tariff provisions claiming that listing the economic terms would reduce its flexibility to ask for additional data in the future. PJM's arguments do not make any sense. The purpose of delineation of primary economic terms, like price, is that it provides a clear directive to participants that the identified baseline data must be provided under the Tariff. Further, by PJM's own argument, the proposed tariff would not preclude PJM requesting additional information as the need arises.

If the November 9<sup>th</sup> Filing is accepted, the Commission should require that PJM file the amended proposed tariff provisions.

If the November 9<sup>th</sup> Filing is accepted, the Commission should require that PJM file amended proposed tariff provisions to include the requirement that participants provide these 10 primary economic terms associated with any FTR bilateral agreements.

#### **D. Bilateral FTR Trading Should Be Eliminated.**

Bilateral FTR trading outside of PJM's transparent FTR market is inefficient, inconsistent with the basic structure and purpose of the PJM FTR market, and creates unnecessary credit risk. There is no reason to have a bilateral market outside of and invisible to PJM's FTR market.

The Market Monitor recommends that bilateral FTR transactions be eliminated and that all FTR transactions take place in the FTR market, in order to provide full transparency, effective price discovery, and to minimize risk to market participants and PJM members.

The November 9<sup>th</sup> Filing presents an opportunity to investigate under Section 206 of the Federal Power Act whether the bilateral FTR market undermines the transparency and

efficiency of the PJM FTR market, fails to serve the public interest, and is unjust and unreasonable.

## II. CONCLUSION

The Market Monitor respectfully requests that the Commission afford due consideration to this pleading as the Commission resolves the issues raised in this proceeding.

Respectfully submitted,



---

Jeffrey W. Mayes

Joseph E. Bowring  
Independent Market Monitor for PJM  
President  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8051  
*joseph.bowring@monitoringanalytics.com*

General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8053  
*jeffrey.mayes@monitoringanalytics.com*

Howard J. Haas  
Chief Economist  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610) 271-8054  
*howard.haas@monitoringanalytics.com*

Dated: February 6, 2024

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Eagleville, Pennsylvania,  
this 6<sup>th</sup> day of February, 2024.



---

Jeffrey W. Mayes  
General Counsel  
Monitoring Analytics, LLC  
2621 Van Buren Avenue, Suite 160  
Eagleville, Pennsylvania 19403  
(610)271-8053  
*jeffrey.mayes@monitoringanalytics.com*